

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

-

WRIT PETITION NO.20597 of 1998

Between:

- 1 Vagu Sreeramachandra Murthy, S/o. Kamaraju,
Yeleswaram.
- 2 Vagu Venkateswara Rao, S/o. Kamaraju,
Yeleswaram.

..... PETITIONERS

AND

- 1 Government of A.P., rep. by the Secretary,
Social Welfare (J) Department, Secretariat,
Hyderabad.
- 2 The Collector, Kakinada.
- 3 The Spl. Dy. Collector, Tribal Welfare,
Ramachodavaram.
- 4 The Mandal Revenue Officer,
Addateegela.
- 5 Kambham Aranu, S/o Sambaiah,
Gondolu Village.
- 6 Kambham Mosu, S/o Sambaiah,
R/o. Chintapalli Village, Visakhapatnam District.
- 7 Kambham Bushanam, S/o Sambaiah,
Maredumilli, East Godavari District.
- 8 Kambham Nagaraju,
Gondolu Village, Addateegela Mandal,
East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the
circumstances stated in the affidavit filed herein the High Court may be pleased to

call for the records relating to the order of the 1st Respondent made in G.O.Ms.No.45 dated 16/05/1998 confirming the orders of the 2nd and 3rd Respondents in C.M.A.No.51/91 and

LTRP. No. 48/90 respectively, and issue Writ of Certiorari or any other appropriate Writ, Order or Direction quashing the order of the 1st Respondent dated 16/05/1998 made in G.O.Ms.No.45 dated 16/05/1998 confirming the orders of the 2nd and 3rd Respondents in CMA.No.51/91 and LTRP.48/90 respectively and for a consequential direction directing the Respondents not to interfere with the peaceful possession and enjoyment of the petitioners property.

Counsel for the Petitioners: MR.M.LAKSHMANA SARMA

Counsel for the Respondent Nos.1 to 4 : GP FOR SOCIAL WELFARE

Counsel for the Respondent Nos.5 to 8: -----

The Court made the following:

ORDER:

In this writ petition, the petitioners seek to quash the order of the 1st respondent-Government made in G.O.Ms.No.45, dated 16-05-1998 confirming the orders of the respondents 2 and 3 in C.M.A.No.51 of 1991 and LTRP No.48 of 1990 respectively and consequently to direct the respondents not to interfere with their peaceful possession and enjoyment of the land in question.

The petitioners claim to be owners of land admeasuring Ac.1.25 cents situated in Survey No.9/7 of Gondolu village, Addateegela Mandal, East Godavari District, having acquired the same from their father, who stated to have purchased the same in the year 1932. It is stated that on the complaint filed by the respondent Nos.5 to 8 against the petitioners in LTRP. No. 48 of 1990, the 3rd respondent-Special Deputy Collector, Tribal Welfare, ordered eviction of the petitioners from the land in question. It is further stated that as against the said orders of the 3rd respondent, the petitioners filed an appeal in C.M.A.No.51 of 1991 before the 2nd respondent-Collector, who dismissed the same. Aggrieved by the same, the petitioners are stated to have filed a revision before the 1st respondent-Government and the 1st respondent-Government vide its G.O.Ms.No.45, dated 16-05-1998 dismissed the same, against which the present writ petition is filed.

A counter-affidavit is filed by the respondent Nos.1 to 4 stating that the petitioners belong to Vysya community (Non-Tribal) and their father purchased the land from a tribal in the year 1932 without any prior permission of the Agent to Government or other concerned officer, hence the transaction between tribal and non-tribal is void

under Section 4(1) of the Act 1 of 1917. It is stated that the petitioners are not the residents of the village wherein the schedule land is situated and are not cultivating the same since last 25 years and leased out the land to one Ganna Babu Rao and the said transfer of land by the petitioners (Non-tribal) to another Non-Tribal is also null and void under Section 3(1) of Andhra Pradesh (S.A) Land Transfer Regulation-1 of 1959 as amended by A.P (SA) Land Transfer Regulation-1 of 1970 (for short 'APSALT Regulation). It is further stated that the land originally belong to respondent Nos.5 to 8 who belong to Valmiki Community (Mala) notified as Hill Tribe.

Heard the learned counsel for the petitioners and learned Government Pleader for Social Welfare.

It is mainly contended by the learned counsel for the petitioners that there is no reason to reject the revision filed by the petitioners and as per the title deeds respondent Nos.5 to 8 are shown as Christians (Non-tribal), hence, the purchase of land from the respondent Nos.5 to 8 is not an invalid transaction.

On the other hand learned Government Pleader for Social Welfare contends that the petitioners belong to non-tribal, whereas respondent Nos.5 to 8 belong to Valmiki Community (Mala), which was notified as Hill Tribe in G.O.Ms.No.1217, Revenue, dated 04-07-1924 and G.O.Ms.No.1318, Revenue, dated 18-06-1931. He further contends that father of the petitioners purchased the property from respondent Nos.5 to 8, who are tribal, hence the said transaction between tribal and non-tribal is void under Section 4(1) of the Act I of 1917.

The facts, which are necessary for disposal of the writ petition, are that the Special Deputy Tahsildar (TW), Addateegala filed a complaint under Section 3 of the A.P.S.A.L.T. Regulation 1 of 1959 as amended by A.P.S.A.L.T. Regulation 1 of 1970 on behalf of the un-official respondent Nos.5 to 8 for restoration of the land admeasuring Ac.1.25 cents in Survey No.9/7 of Gondolu village of Addateegala Mandal contending that the land in dispute belongs to one Kambam Sambaiah, father of respondent

Nos.5 to 8, and that the petitioners, who are non-tribal (Vysya) purchased the land in the year 1932 by that time itself the community of un-official respondents i.e., Mala community was notified as "**Hill Tribe**" by virtue of G.O.Ms.No.769, Revenue, dated

06-04-1932. So it is a transaction between tribal and non-tribal, which is invalid transaction as per Section 4(1) of the Act I of 1917 and sought that the said transaction is hit by the said provisions.

According to the petitioners own admission they are not cultivating the said land from the last 25 years and given it on lease to one Gannem Babu Rao, who is Perika by caste and even according to Section 2(g) of A.P.S.A.L.T. Regulation 1 of 1959 as amended by Regulation 1 of 1970 "Transfer" includes lease, sale, gift, exchange or any other dealing with immovable property. So according to the admission of the petitioners giving the land on lease to Gannem Babu Rao is also illegal as per Section 2(g) of the Act and is hit by the provisions under Section 3(1) of A.P.S.A.L.T. Regulations 1 of 1959 as amended by Regulations 1 of 1970 as it also prohibits transfer of land from tribal to non-tribal.

Taking those facts into consideration, the revision petition, filed by the petitioners against the order passed by the 2nd respondent in C.M.A. No.51 of 1991, was rejected by the 1st respondent-Government vide G.O.Ms.No.45, dated 16.05.1998. Except the material produced before the 1st respondent-Government, the petitioners have not produced any other material before this Court to arrive at a different conclusion than that of the 1st respondent-Government. As stated supra, since the transaction in question between tribal and non-tribal is invalid as per Section 4(1) of the Act 1 of 1917 and admittedly the petitioners gave the land on lease to one Gannem Babu Rao (Non-tribal), which is hit by the provisions under Section 3(1) of APSALT Regulations 1 of 1959 as amended by Regulations 1 of 1970, the 1st respondent-Government rightly rejected the revision filed by the petitioners and I see no reasons to interfere with the same in exercise of jurisdiction under Article 226 of the Constitution of India.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 22.02.2005

Nsr/Tvk

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Secretary, Social Welfare (J) Department,
Government of A.P., Secretariat,
Hyderabad.
- 2 The Collector, Kakinada.
- 3 The Spl. Dy. Collector, Tribal Welfare,
Ramachodavaram.
- 4 The Mandal Revenue Officer,
Addateegela.
- 5 Two CCs to GP for Social Welfare, High Court of AP, Hyderabad (OUT)
- 6 2 CD copies

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